

**MINUTES
TOWN OF EDGEWOOD
REGULAR COUNCIL MEETING – MARCH 12, 2008 @ 6:30 P.M.
EDGEWOOD COMMUNITY CENTER - #27 E. FRONTAGE ROAD**

1. CALL TO ORDER.

Mayor Stearley called the Meeting to order at 6:30 P.M. All Councilors were present.

Also present were Mr. Marcus Rael, Town Attorney, Ms. Karen Mahalick, Manager, Community Planning & Development, and Ms. Estefanie Muller, Deputy Clerk.

2. PLEDGE OF ALLEGIANCE.

3. APPROVAL OF AGENDA.

Mayor Stearley asked that Item 18 be moved after Item 21.

MOTION: Councilor Felton made a motion to approve the Agenda as amended.
Councilor Hill seconded the motion.

VOTE: Councilor Abrams voted aye. Councilor Felton voted aye. Councilor Hill voted aye. Councilor Simmons voted aye. The motion carried.

4. MATTERS FROM THE MAYOR.

A. Mayor's Speech at the Chamber of Commerce.

Mayor Stearley reviewed a letter with the Council on his speech at the Chamber luncheon. He addressed suggestions given to him on the sign ordinance; urging citizens to shop locally; establishing a purchasing policy; resume the Town newsletter; and looking into reducing the sales tax rate.

B. Mayor's Speech at North 14 Neighborhood Association Meeting.

Mayor Stearley attended the Meeting and discussed concerns brought to his attention. He asked the Association to address these concerns in writing to the Town.

5. MATTERS FROM THE COUNCILORS and/or ANNOUNCEMENTS.

Mayor Stearley welcomed Councilor Abrams. Councilor Abrams discussed his future intentions and service to the Town residents and working on being more of an open government.

Councilor Felton asked about the procurement and the New Mexico Department of Transportation. He would like to have the blue signs on I-40 that indicate the services the Town of Edgewood offers. Mayor Stearley stated the Chamber of Commerce could look into this.

Councilor Hill thanked the Town residents and their support during his campaign.

6. MATTERS FROM THE ATTORNEY.

Mr. Rael reviewed the State Statutes on the Mayor's Organizational Meeting process tonight. Councilor Hill congratulated Mr. Rael on being appointed to the Bar Board and his professional accomplishment.

7. PUBLIC SAFETY.

Chief Welch stated he is working on several issues. There is no telephone service. He will be meeting with the RECC-Regional Emergency Communications Center. Chief Welch is reviewing applications and has 15 possibilities. He has questions regarding the P.E.R.A. plan. If retirees are hired the Town would be responsible for the employer and employee contribution towards P.E.R.A. He stressed the importance of experienced officers. A representative from P.E.R.A. will be present at the next meeting to discuss the plans and answer any questions the Council may have.

Councilor Felton stated there has been trespassing on Section 16, the gate is down and there is concern on the liability issues. Ms. Mahalick stated she will have the Road Department look into this.

Chief Welch stated every Wednesday at 7:00 A.M. he is available for a breakfast work session with any business or resident. A meeting has been scheduled for Friday, March 21, 2008 with the Neighborhood Watch Association at the Community Center at 7:00 P.M. Mr. Harlan Lawson is organizing the meeting for the Association.

8. PUBLIC COMMENTS. (Limit to 2 minutes per person).

Note: If you plan to testify under Public Hearings, please do not sign-up for the same topic.

Ms. Sue West stated her feelings on Wild Life West and the importance to the Town. She complimented Mr. Roger Holden, Parks & Recreation Director on his expertise and also with his the committee.

Ms. Diane Stearley congratulated the Council.

Ms. Janelle Turner stated she was the observer at the Municipal Election and thanked the election board and the staff for all they did for the election. She stated there were several who voted on certificates and stated this was due to the Town boundaries in recent annexations and maybe future communication with Santa Fe County could prevent this.

Mr. Chuck Ring stated he enjoyed his tenure with the Town. He addressed 3 concerns; the Council consider the discharge of employees and the impact on their lives; the discussion on the cut of taxes with projects to finish, cutting taxes could affect the completion. He discussed the tax rate and the percentage that goes to Santa Fe County. He also addressed the police salaries and his support of building a good department. Councilor Felton thanked Mr. Ring for his work and involvement with the Town.

Mr. Fred Burger stated he was one of the residents who pushed for the sewer system and

how this would attract businesses and residents. Smith's, Wal-Mart, and Rich Ford are here. The sewer project still needs money. He inquired on the Handicap signs request for the Community Center. He stated he has heard complaints on speeding and also the pollution and dust problem.

Ms. Mahalick updated on the Sewer Plant and easements are secured. The New Mexico Environment Department signs are going up as required. The discharge permit has been approved.

9. APPROVAL OF PREVIOUS MINUTES.

C. Regular Council Meeting Minutes of February 20, 2008.

MOTION: Councilor Simmons made a motion to approve the Minutes with discussion. Councilor Hill seconded the motion.

Councilor Simmons stated she spoke with Estefanie on minor changes to the Minutes. Councilor Hill addressed the Closed Session portion and the motions made were not included. These Minutes will reflect these corrections.

VOTE: Councilor Simmons voted aye. Councilor Hill voted aye. Councilor Felton voted aye. Councilor Abrams voted aye.

10. APPROVAL OF CONSENT AGENDA.

Note: All matters under the Consent Agenda are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

D. Planning & Zoning Commission Meeting Minutes of March 3, 2008.

E. Parks and Recreation Advisory Committee Meeting Minutes of January 24, 2008.

MOTION: Councilor Simmons made a motion to approve the Consent Agenda as presented. Councilor Felton seconded the motion.

VOTE: Councilor Abrams voted aye. Councilor Felton voted aye. Councilor Hill voted aye. Councilor Simmons voted aye. The motion carried.

11. MATTERS FROM THE MUNICIPAL JUDGE.

F. Judge White will present his report for the month of January 2008 and February 2008. Judge White thanked everyone for their support.

He reviewed his report for January and February and detailed the court costs explaining where the fees are allocated.

12. ESTANCIA BASIN RESOURCE ASSOCIATION – Mr. Art Swenka

Mr. Swenka was not present.

Initials

MOTION: Councilor Hill made a motion to table this item. Councilor Felton seconded the motion.

VOTE: Councilor Abrams voted aye. Councilor Felton voted aye. Councilor Hill voted aye. Councilor Simmons voted aye. The motion carried.

13. Y.E.S. PROGRAM UPDATE – Ms. Karen Harrison.

Ms. Harrison stated the program was awarded \$45,000 from Santa Fe County. The funding stipulates the rates be lowered to \$30.00 per person. The program will be for 6 weeks and run for 4 days from 9:00 A.M. to 4:00 P.M. from June 16th through July 24th. She has 125 – 140 kids participating and will need more transportation. A contract will be drawn up between Santa Fe County and the Town of Edgewood.

This is her 8th year with the Y.E.S. Program. She is unsure if the program will held at South Mountain Elementary or at Edgewood Elementary School. She has student volunteers, adults and some teachers who assist her.

14. PUBLIC HEARINGS.

Quasi Judicial Procedure: Certification that Public Notice of this Meeting has been posted as required: Ms. Mahalick affirmed notice requirements were met.

Note: This item is a continuation from the Council Meeting of February 20, 2008.

These cases are being heard under provisions required by the New Mexico Court of Appeals intended to protect the rights of all parties and their witnesses and the swearing in of all parties giving testimony. The affected parties will have the right to cross-examine persons giving testimony.

Confirmation of no conflict of interest or ex-parte communication.

Councilor Abrams stated he had no conflict of interest or ex-parte communication.

Councilor Felton stated he had no conflict of interest or ex-parte communication.

Mayor Stearley stated he had no conflict of interest or ex-parte communication.

Councilor Hill stated he would recuse himself due to family relationship in this hearing.

Councilor Simmons stated she had no conflict of interest or ex-part communication.

G. Appeal of Pueblo Artesanos subdivision final plat phase one.

At this time Mr. Rael swore in all parties to testify.

Mr. Rael updated on the appeal in front of them tonight. He stated this is an appeal on a decision from the Planning & Zoning Commission granting a preliminary plat approval.

Ms. Peggy Conger stated a letter was sent to the Councilors today via email. Mayor Stearley, Mr. Rael and most of the Council had not received the letter. She stated the

neighbors are upset with the Planning & Zoning approval and feel they have a legal objection and this should be heard by the Town Council. It is an instance of condemnation and it will be an instance of inverse condemnation if the road access is allowed to go across the private part of Rory Road. She referred to plats creating the lots. Ms. Conger referred to Councilor Simmons comment at a previous meeting on the 1995 private access easement being available to all whose land it touches. Ms. Conger stated this does not apply to Rory Road, the eastern part is private, and the neighborhood approached the Town twice as the perfect solution as it goes out to Highway 344, the traffic could be funneled out. They were told that portion was private. She discussed Mr. Rael's decision in his reference to the 8 lots which were non-existent in the 1995-1996 easement and referred to the other plat maps. The 2005 plat map filed by Jensen and Ulrich re-granted the 38 ft. private easement as a public access easement which is true for area of Pueblo Artesanos but untrue for the 4 lots on the northern side of Rory Road.

Ms. Kathy Russell wanted to follow up on her question from the last meeting on the Town's response to the statute of limitations, and prevent action being filed against the Town. She received other opinions and comments from other experts and stated Mr. Rael's opinion is just that and not a fact. Ms. Russell referred to other Attorney's opinions that practice real estate law. She feels all options be reviewed closely. Ms. Russell commented on the Town's ordinances and sub-division regulations.

Councilor Felton referred to the Planning & Zoning Commission Minutes and referred to the 58 homes to be built and where the 65 homes come from. Ms. Russell this included the original 8 homes. Councilor Simmons asked if fire protection on a loop road be better to which Ms. Russell stated she could not comment on.

MOTION: Councilor Simmons made a motion to remand this item back to the Planning & Zoning Commission for reconsideration. Councilor Abrams seconded the motion.

Mr. Rael referred to his letter that interpreted the 2005 plat, and explained where he does not disagree with the neighborhood association and where explained the fundamental misunderstanding of property law. The 1995 plat contains the easement that travels across the entire width of the property and was 38 ft wide private access and was in place before the homeowner's lots were created. The lots are subservient to that easement and it serves the entire property. The 2004 plat created the 4 lots and he has reviewed the deeds of these 4 lots and on the plat it states the 4 lots were taken subject to the private access easement. The difference in New Mexico law between a private access easement and an exclusive easement is that an exclusive easement is for your use and enjoyment. A private access easement is for the use of the property that it is subservient to which is the case now. In the 2005 plat it re-granted the remaining portion that is not under those 8 lots of Rory Road as a private access easement and also widens the easement to 50 ft. It also added a 12 ft. public access easement along the original 38 ft. private access

easement which the lot owners hold. Their easement is a private access easement for that portion only but is not an exclusive easement. Mr. Rael stands by his interpretation based on this information. There could be a problem on who would maintain this portion of the road and referred to the covenants.

Ms. Mahalick stated one of the reasons the Town re-defined sub-division regulations was specifically to address this issue where sub-dividers were doing subsequent subdivisions where they did not have to put in the improvements in. The original lots did not fall under the new regulations and the developer was cautioned not to return with the same type of configuration and at the time they returned they said this was for affordable housing and the schools were hurting and requested the project move forward and basically stated we are zoned R-1 and if not granted they would sue the Town. This is for the record.

VOTE: Councilor Abrams voted aye. Councilor Felton voted aye. Councilor Hill voted aye. Councilor Simmons voted aye. The motion carried.

Councilor Simmons commented how difficult it is when letters are received the day of the matter for discussion.

15. COMMUNITY PLANNING & DEVELOPMENT.

H. Annexation Policy Discussion.

Ms. Mahalick asked the Council to consider waiving the petition fee if the applicant's property is bound on three sides by the Town. The petition fee is \$100.00. Mr. Rael cautioned the Council of an equal protection argument. Ms. Mahalick stated by solidifying boundaries this would assist the police services on which agency responds. Councilor Felton asked if the Town could legally define three sides. Ms. Mahalick will formulate a Resolution and bring to the Council for review. Councilor Abrams stated this is a good incentive to get more annexations.

I. Approval to request RFP for Engineering Services.

Ms. Mahalick stated the Engineering Contract with Dennis Engineering expired in December 2007. Mr. Tappan Mahoney, Dennis Engineering was present and stated services are still used on a month to month basis. Ms. Mahalick stated the Town needs an engineering firm on board.

MOTION: Councilor Hill made a motion authorizing Staff to prepare a Request for Proposals for advertisement. Councilor Felton seconded the motion.

VOTE: Councilor Simmons voted aye. Councilor Hill voted aye. Councilor Felton voted aye. Councilor Abrams voted aye. The motion carried.

J. Other.

None.

Initials

16. RESOLUTIONS.

K. Resolution No. 2008-14 – Adopt the State Plan for Deferred Compensation.
Mr. Jeff Francis was present and reviewed the Plan with the Council. He stated there will be no cost to the Town of Edgewood with this Plan. The State awarded the contract for municipalities to participate.

MOTION: Councilor Felton made a motion to approve Resolution No. 2008-14.
Councilor Simmons seconded the motion.

VOTE: Councilor Abrams voted aye. Councilor Felton voted aye. Councilor Hill voted aye. Councilor Simmons voted aye. The motion carried.

L. Resolution No. 2008-15 – Participation in the 2008-09 CO-OP Program.

MOTION: Councilor Simmons made a motion to approve Resolution No. 2008-15.
Councilor Hill seconded the motion.

VOTE: Councilor Abrams voted aye. Councilor Felton voted aye. Councilor Hill voted aye. Councilor Simmons voted aye. The motion carried.

17. ANNOUNCEMENTS, CALENDAR REVIEW & FUTURE AGENDA ITEMS.

M. Regular Council Meeting – March 19, 2008 at 6:30 P.M.

N. Regular Council Meeting – April 2, and 16, 2008 at 6:30 P.M.

Mayor Stearley asked if there would be anyone attending any conferences to which Ms. Mahalick stated she had been approved to attend a conference in Las Vegas, Nevada on April 27th through May 1st.

Councilor Simmons stated she is interested in a conference on Main Street to be held in Ruidoso, NM and will bring information on this. Ms. Muller will look into this also.

18. CONSIDERATION OF THE CONTRACT WITH THE TOWN'S LOBBYIST.

This item was discussed after item 20.

19. TERMINATION OF THE USE OF TORRANCE COUNTY ANIMAL SHELTER.

MOTION: Councilor Hill made a motion to table this item. Councilor Felton seconded the motion.

VOTE: Councilor Abrams voted aye. Councilor Felton voted aye. Councilor Hill voted aye. Councilor Simmons voted aye. The motion carried.

20. CLOSED SESSION.

Initials

As per motion and roll call vote, pursuant to NMSA 1978, 10-15-1(H)(7) and (H)(2), the following matter will be discussed in Closed Session.

1. Possible litigation.
2. Contract negotiations.
3. Limited personnel matters.

MOTION: Councilor Hill made a motion to go into Closed Session pursuant to MSA 1978 10-15-1-(H)(7) and (H)(2) to discuss the items listed. Councilor Felton seconded the motion.

VOTE: Councilor Abrams voted aye. Councilor Felton voted aye. Councilor Hill voted aye. Councilor Simmons voted aye. The motion carried.

MOTION: Councilor Hill made a motion to reconvene the Meeting. Councilor Felton seconded the motion.

VOTE: Councilor Simmons voted aye. Councilor Hill voted aye. Councilor Felton voted aye. Councilor Abrams voted aye. The motion carried.

MOTION: Councilor Hill made a motion for the record that only the items listed were discussed and no action was taken. Councilor Felton seconded the motion.

VOTE: Councilor Abrams voted aye. Councilor Felton voted aye. Councilor Hill voted aye. Councilor Simmons voted aye. The motion carried.

MOTION: Councilor Felton made a motion authorizing Mr. Rael and Staff to send a letter to the Campbell Corporation stipulating that the terms of the original Development Agreement be adhered to with respect to fire, police, animal control and EMS. Councilor Simmons seconded for discussion.

Councilor Felton amended his motion and stated the Mayor and Town Staff be directed to send a letter to Campbell Corporation stipulating the terms of the Development Agreement as written be adhered to with respect to fire, police, animal control and EMS. Councilor Abrams seconded the motion.

VOTE: Councilor Abrams voted aye. Councilor Felton voted aye. Councilor Hill voted aye. Councilor Simmons voted aye. The motion carried.

18. CONSIDERATION OF THE CONTRACT WITH TOWN'S LOBBYIST.

Initials

MOTION: Councilor Felton made a motion to terminate the agreement with the Town's Lobbyist. Councilor Simmons seconded the motion.

VOTE: Councilor Simmons voted aye. Councilor Hill voted aye. Councilor Felton voted aye. Councilor Abrams voted aye. The motion carried.

21. RE-ORGANIZATIONAL MEETING.

O. Election of Mayor Pro-Tem.

MOTION: Councilor Abrams made a motion to appoint Councilor Felton as Mayor Pro-Tem. Councilor Hill seconded the motion.

VOTE: Councilor Abrams voted aye. Councilor Felton voted aye. Councilor Hill voted aye. Councilor Simmons voted aye. The motion carried.

P. Appointment of Employees.

Mayor Stearley stated he would like to re-appoint all the Town of Edgewood employees to the positions they currently serve and at this time there will be no recommendation of appointment for Public Works Director and no recommendation for appointment for Administrator and at this time is recommending appointment of Ms. Estefanie Muller as Acting Administrator Clerk-Treasurer.

MOTION: Councilor Felton made a motion to accept the recommendations by Mayor Stearley with respect to appointing Town Staff. Councilor Abrams seconded the motion.

VOTE: Councilor Abrams voted aye. Councilor Felton voted aye. Councilor Hill voted aye. Councilor Simmons abstained. The motion carried.

Q. Approval of Organizational Chart.

MOTION: Councilor Felton made a motion to accept the Organizational Chart amending the Administrator with Estefanie Muller as the Acting Administrator Clerk-Treasurer. Councilor Hill seconded the motion.

MOTION: Councilor Felton amended his motion to approve the Organizational Chart as amended moving Code Enforcement under the Police Chief's section. Councilor Hill seconded the motion.

VOTE: Councilor Simmons voted aye. Councilor Hill voted aye. Councilor Felton voted aye. Councilor Abrams voted aye. The motion carried.

MOTION: Councilor Felton made a motion to approve the newly revised Organizational Chart. Councilor Hill seconded the motion.

VOTE: Councilor Simmons voted aye. Councilor Hill voted aye. Councilor Felton voted aye. Councilor Abrams voted aye. The motion carried.

R. Town of Edgewood Check Signing Authorization.

MOTION: Councilor Felton made a motion to remove Howard Calkins, Chuck Ring and Jeff Condrey as previous signers and to add Mayor Stearley as a signer. Councilor Abrams seconded the motion.

MOTION: Councilor Felton made a motion to include the Mayor Pro-Tem as a signer. Councilor Hill seconded the motion.

VOTE: Councilor Abrams voted aye. Councilor Felton voted aye. Councilor Hill voted aye. Councilor Simmons voted aye. The motion carried.

(ORGANIZATIONAL MEETING TO BE CONTINUED ON 3/19/08.)

22. ADJOURN.

MOTION: Councilor Simmons made a motion to adjourn the Meeting. Councilor seconded the motion.

VOTE: All Councilors voted aye.

Mayor Stearley adjourned the Meeting at 9:40 P.M.

APPROVED AND ADOPTED THIS 2ND DAY OF APRIL, 2008.

Honorable Robert Stearley, Mayor

ATTEST:

Estefanie B. Muller, Acting Administrator Clerk-Treasurer